

REFERENCE TITLE: **adverse actions; religious; political beliefs**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2321**

Introduced by  
Representatives Kolodin: Bliss, Chaplik, Gress, Heap, Livingston,  
Marshall, McGarr, Montenegro, Parker B, Wilmeth, Senator Wadsack

**AN ACT**

**AMENDING TITLE 12, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3; RELATING TO SPECIAL PROCEEDINGS INVOLVING THE GOVERNMENT.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 7, Arizona Revised Statutes, is  
3 amended by adding article 3, to read:

4 ARTICLE 3. PROTECTED POLITICAL AND RELIGIOUS BELIEFS

5 12-851. Prohibiting adverse actions on the basis of religious  
6 or political beliefs, positions, association or  
7 expression; jurisdiction; civil action; definitions

8 A. A GOVERNMENT AGENT MAY NOT TAKE OR PARTICIPATE IN AN ADVERSE  
9 ACTION AGAINST ANY NATURAL PERSON IF THE GOVERNMENT AGENT'S DECISION TO DO  
10 SO IS MOTIVATED IN WHOLE OR IN PART BY AN UNLAWFUL ANIMUS EVEN IF THAT  
11 NATURAL PERSON WOULD OTHERWISE PROPERLY BE THE SUBJECT OF THE ADVERSE  
12 ACTION.

13 B. NO COURT IN THIS STATE HAS JURISDICTION OVER AN ADVERSE ACTION  
14 BROUGHT IN VIOLATION OF THIS SECTION.

15 C. ALL JUDGMENTS AND DECISIONS RENDERED IN VIOLATION OF THIS  
16 SECTION SHALL BE SET ASIDE.

17 D. ANY EVIDENCE OBTAINED PURSUANT TO A SEARCH OR SEIZURE THAT IS IN  
18 VIOLATION OF THIS SECTION IS INADMISSIBLE IN ANY ADMINISTRATIVE, CIVIL OR  
19 CRIMINAL PROCEEDING.

20 E. AN ARREST THAT IS MADE IN VIOLATION OF THIS SECTION IS INVALID.

21 F. IF A GOVERNMENT AGENT VIOLATES SUBSECTION A OF THIS SECTION, THE  
22 PERSON WHOSE RIGHTS ARE VIOLATED MAY BRING A CAUSE OF ACTION IN STATE OR  
23 FEDERAL COURT AGAINST BOTH THE GOVERNMENT AGENT AND THE GOVERNMENT ENTITY  
24 THAT EMPLOYS OR CONTRACTS WITH THE GOVERNMENT AGENT, INCLUDING THIS STATE,  
25 EXCEPT THAT THIS STATE IS NOT SUBJECT TO A SUIT IN FEDERAL COURT. AN  
26 ACTION BROUGHT PURSUANT THIS SUBSECTION SHALL BE COMMENCED WITHIN FOUR  
27 YEARS AFTER THE CONCLUSION OF THE ADMINISTRATIVE, CIVIL OR CRIMINAL  
28 PROCEEDING OR INVESTIGATION THAT WAS MOTIVATED BY AN UNLAWFUL ANIMUS,  
29 INCLUDING ALL APPEALS. IT IS NOT A DEFENSE TO THE CAUSE OF ACTION THAT  
30 THE PERSON WHOSE RIGHTS WERE VIOLATED WOULD OTHERWISE PROPERLY BE THE  
31 SUBJECT OF THE ADVERSE ACTION OR THAT THE ADVERSE ACTION RESULTED IN AN  
32 ADVERSE JUDGMENT, DECISION, OPINION, VERDICT OR RULING AGAINST THE PERSON  
33 WHOSE RIGHTS HAVE BEEN VIOLATED.

34 G. IN ANY CAUSE OF ACTION FILED PURSUANT TO SUBSECTION F OF THIS  
35 SECTION, A PREVAILING PLAINTIFF SHALL RECOVER DECLARATORY RELIEF,  
36 INJUNCTIVE RELIEF, COMPENSATORY DAMAGES, NOMINAL DAMAGES, ATTORNEY FEES  
37 AND COSTS.

38 H. FOR THE PURPOSES OF THIS SECTION:

39 1. "GOVERNMENT AGENT" MEANS ANY LOCAL, STATE OR FEDERAL OFFICIAL  
40 WHO IS EMPLOYED BY OR CONTRACTS WITH GOVERNMENT IN THIS STATE AT ANY LEVEL  
41 AND WHO IS ACTING IN THAT CAPACITY OR ANY MEMBER, EMPLOYEE OR CONTRACTOR  
42 OF A REGULATORY BOARD OR COMMISSION IN THIS STATE AT ANY LEVEL AND WHO IS  
43 ACTING IN THAT CAPACITY.

44 2. "TAKE OR PARTICIPATE IN AN ADVERSE ACTION":

1 (a) MEANS INVESTIGATING ANY NATURAL PERSON, PROSECUTING ANY NATURAL  
2 PERSON, OR DIRECTING THAT ANY PROCEEDING OF ANY SORT THAT SEEKS ANY  
3 ADVERSE ADMINISTRATIVE, CIVIL OR CRIMINAL ACTION AGAINST ANY NATURAL  
4 PERSON BE COMMENCED OR MAINTAINED.

5 (b) DOES NOT INCLUDE AN ACTION THAT IS COMMENCED OR MAINTAINED  
6 AGAINST A NATURAL PERSON IN THAT PERSON'S OFFICIAL CAPACITY.

7 3. "UNLAWFUL ANIMUS" MEANS A DISAGREEMENT WITH OR DISLIKE OF A  
8 PERSON'S RELIGIOUS OR POLITICAL BELIEFS, POSITIONS, ASSOCIATIONS OR  
9 EXPRESSION.

10 Sec. 2. Legislative findings

11 The legislature finds that:

12 1. State and federal statutes, rules, laws and regulations are so  
13 numerous, broad and expansive that they allow for virtually any person to  
14 be targeted by the government for their violation.

15 2. This has facilitated a disturbing trend in recent years of  
16 politically motivated adverse actions being undertaken by government  
17 agents on both sides of the aisle against individuals because of  
18 disagreements with their beliefs, expression, associations or positions.  
19 Even when legally justified, such actions undermine, instead of promote,  
20 the rule of law and faith in our governing institutions.

21 3. The protections of the Arizona Constitution go beyond those of  
22 the first amendment.

23 4. The legislature has the authority to further defend first  
24 amendment protected activity beyond the bounds of the Arizona  
25 Constitution.

26 Sec. 3. Short title

27 This act may be cited as the "First Amendment Protection Act".